IN THE HIGH COURT JUDICATURE AT MADRAS

DATED: 08.09.2006

CORAM:

THE HONOURABLE MR.JUSTICE P.K.MISRA

W.P.Nos.7988, 7989, 11384 to 11386, 11505 to 11514, 11678 to 11690, 12260 to 12262, 12267 to 12269, 12561, 12544, 14576, 14600, 14607, 14807, 14813, 14827, 15038, 15449 of 2003, 1499, 4939, 4940 and 5600 of 2001,
10777 and 13461 of 2005

AND

WPMP.Nos.14472 to 14481, 15759, 18537, 18541, 18555 of 2003 and 14743 of 2005

W.P.No.7988/2003: & W.P.7989 of 2003

Solaiappa Sami Modern Rice Mills,
rep.by its Proprietor R.Balakrishnan,
16 CNT Road, Thandalkarani,
Red Hills, Chennai-600 052. ... Petitioner in W.P.7988/2003

Andavar Rice Mills rep by Subbarajan,
Proprietor
No. 78 sa Chithanandam Street, Kuyapet,
Chennai-12 ... Petitioner in W.P.7989/2003

vs.

1.The Superintending Engineer,
CEDC/West Anna Nagar,
Tamil Nadu Electricity Board,
Chennai-600 040.

2.The Assistant Executive Engineer,
Avadi, CED Circle/West,
Tamil Nadu Electricity Board,
Chennai-600 054.

3.The Assistant Executive Engineer,
O & M, Red Hills, CEDC/West,
Red Hills, Tamil Nadu Electricity Board,
Chennai-600 052. ... Respondents in both WPS

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W.P.11384 of 2003

M/s. Sxposkin
Rep by its Manager,
N. Manoharan,
158 thiruneermalai Main Road,
Nagelkeni, Chrompet, Chennai-44 ... Petitioner

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
tamil Nadu electicity Board,
Sripuram, Chrompet,
Chennai-600 041. ... Respondents

W.P.11385 of 2003

M/s. Bismillah Tannery,
Rep by its Manager,
M.K. Yusff ... Petitioner

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electicity Board, Anna Main Road,
K.K. Nagar, Chenani-78.

2. The Assistant Executive Engineer,
Operation & Maintenance
TNEBPallavaram, Chennai-43.

3. The Assistant Engineer,
Operation & Maintenance,
TNEB, Anakaputhur,
Chennai-70. ... Respondents

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W.P.No.11386 of 2003

M/s. Royal Leathers Rep by its Manager,
M. Solaimalai ... Petitioner

VS

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electicity Board, Anna Main Road,
K.K. Nagar, Chenani-78.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents

W.P.No.11505 to 11508 of 2003

M/s. Eurasia Tanning Company
Rep by its Manager Jayaker ... Petitioner in
W.P.11505 of 2003

M/s. Raja Rajeswari Enterprises
Rep by its Manager D. Janardanan ... Petitioner in
W.P.11506 of 2003

M/s. suddler Shoes Pvt. Ltd.,
rep by its Manager G. Anbazhagan ... Petitioner in
W.P.11507 of 2003

M/s. V.S. D. Leathers
Rep by its Managing Partner
V. Vimalraj ... Petitioner in
W.P.11508 of 2003

VS

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electicity Board, Anna Main Road,
K.K. Nagar, Chenani-78.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

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3. The Assistant Executive Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 041. ... Respondents in 11505 to 11508/03

W.P. 11509 of 2003

M/s. Jay Ar. Enterprises
Rep by its Proprietor R. Abdulkalam ... Petitioner

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electicity Board, Anna Main Road,
K.K. Nagar, Chenani-78.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Pallavaram Chennai-43.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Pammal,
Chennai-75 ... Respondents

W.P.11510 to 11514 of 2003

M/s. Mahalakshmi Leather Corporation
Rep by its Manager D. Janardanan ... Petitioner in W.P.11510 of 2003

M/s. Penguin Leathers
Rep by its Manager K. Kirubakaran ... Petitioner in W.P.11511 of 2003

M/s. The General & Industrial
Leather (P) Ltd.,
Rep by its Manager Mohanraj ... Petitioner in W.P.11512 of 2003

M/s. Pearl Lether industries
Rep by its Partner P.M. Muthiah ... Petitioner in W.P.11513 of 2003

M/s. BEngal Tanning Industries
Rep by its Partner Jamil Ahmed ... Petitioner in W.P.11514 of 2003

Vs

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1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents

W.P.No.11678 & 11679 of 2003

M/s. Coimbatore Chrome Tanning Co
Rep by its Manager
M. Sethuraman Petitioner in 11678 of 2003

M/s. P. Ansarmyan Company
rep by its Proprietor A. Zeaudeen .. Petitioner11679of 2003

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents

W.P.No.11680 of 2003

M/s. Nutechleathers
Rep by its Proprietor M. Marimuthu ... Petitioner

Vs

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1. The Superintending Engineer,
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electicity Board, Anna Main Road,
K.K. Nagar, Chenani-78.

2. The Assistant Executive Engineer,
Operation & Maintenance
TNEB, Pallavaram, Chennai-43.

3. The Assistant Engineer,
Operation & Maintenance,
TNEB, Anakaputhur,
Chennai-70. ... Respondents

W.P.No.11681, 11682, 11685 and 11686 of 2003

M/s. K.M. Adam Tannery
Rep by its Managing Partner
K.a. Deen Mohammed ... Petitioner in
W.P.11681/03

M/s. A. Irudayamary
A.V.M. Leathers ... Petitioner in
W.P.11682/03

Mr. K.R. Krishnan
Exposkin Complex ... Petitioner in
W.P.11685/03

M/s. Anees Leathers
Rep by its Manager
a.M. Nazeer Ahmed Baig ... Petitioner in
W.P.11686/03

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents in
W.P.11681, 11682,
11685 and 11686 of 03

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W.P.11683 & 11684 of 2003

M/s. R.D. Bhatla Trading
Rep by its Proprietor Anil Bhatla ... Petitioner in W.P.11683 of 2003

M/s. Coral Leather Company
Rep by its Partner N . Renganathan ... Petitioner in W.P.11684 of 2004

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electicity Board, Anna Main Road,
K.K. Nagar, Chenani-78.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Pallavaram Chennai-43.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Pammal, Chennai-75 ... Respondents in W.P.11683 & 11684 of 2004

W.P.NO.11687, 11689, 11690 of 2003

O.s. Abdul Razack
Abdullah Glue Complex ... Petitioner in W.P.11687 of 2003

M/s. T.T.K. HEalth Care Ltd.,
Rep by its Factory Manager
Rajiv K. Nair ... Petitioner in W.P.11689 of 2003

M/s. Emsons Enterprises
rep by its Managing Partner
M.S. Pandian ... Petitioner in W.P.11690 of 2003

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

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2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents in W.Ps. 11687, 11689 and 11690/03

W.P.11688 of 2003

M/s. sherijamma ... Petitioner

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electicity Board, Anna Main Road,
K.K. Nagar, Chenani-78.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Pallavaram Chennai-43.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Pammal, Chennai-75 ... Respondents

W.P.No.12260 to 12262 of 2003

MR.P. Mohamed Iqbal ... Petitioner in W.P.12260 of 2003

Sierra trading Ltd.,
Rep by its Director Jammal Sabih ... Petitioner in W.P.12261 of 2003

M/s. Alim Leathers
Rep by its Partner
Mr.P. Rajamohamed ... Petitioner in W.P.12262 of 2003

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

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2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents in W.Ps. 12260 to 12262 of 2003

W.P.12267 to 12269 of 2003

M/s. Cousins & co
Rep by its Partner Mr.P. Abdulkadar ... Petitioner in W.P.12267 of 2003

M/s. N.P.M. & Sons
Rep by its Partner P. Abdul Kadar .. Petitioner in W.P.12268 of 2003

M/s. Peersons Leathers
Rep by its Partner Mr.P. Rajamohamed .. Petitioner in W.P.12269 of 2003

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents in W.P.12267 to 12269 of 2003

W.P.12561 of 2003

M/s. MECCA Prime Tannery
Rep by its Proprietor
Mr.S. Veeraiyan ... Petitioner

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Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents

W.P.No.12544 of 2003

M/s. Sri Amman Leathers
Rep by its Proprietor A.S. Baskaran ... Petitioner

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents

W.P.14576 of 2003

M/s. Colour Leathers (P) Ltd.,
Rep by its Director Mr. Arun Mehra ... Petitioner

Vs

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1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents

W.P.No.14600 of 2003

M/s. Aman Tanning Company,
Rep by its Manager MR. Arun Mehra ... Petitioner

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents

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W.P.No.14607 of 2003

M/s. ALFA Leather & Footwear Company
Rep by its Partner Mr. Arun Mehra ... Petitioner

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

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2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents

W.P.No.14807 of 2003

Mrs. Rajeshwari
Venponn Shoes ... Petitioner

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Radhanagar,
Chennai-600 044. ... Respondents

W.P.No.14813 of 2003

M/s. Zulaikha Industries
Rep by its Manager,
Mr.N. Balakrishnan ... Petitioner

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance

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Tamilnadu Electricity Board,
Kadaperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Radhanagar,
Chennai-600 044. ... Respondents

W.P.14827 of 2003

M/s. T.R.S. Leathers
Rep by its Managing Partner
Mr.S. Sethuraman ... Petitioner

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet
Chennai-600 044. ... Respondents

W.P.15038 of 2003

M/s. Shaika Leather Corporation,
Rep by its Proprietrix
Mrs. Nyra Ahmed ... Petitioner

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

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3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents

W.P.No.15449 of 2003

Sri Andal Leather (P) Ltd.,
Rep by its Managing Director,
Mr.P. Rajendran. ... Petitioner

Vs

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu Electicity Board,
Sripuram, Chrompet,
Chennai-600 044. ... Respondents

W.P.No.1499 of 2001

Ranipet SIDCO Entrepreneurs Association
Old Library Building,
Ranipet- 632 403
rep by its President. ... Petitioner

Vs

1. State of Tamilnadu
rep by its Secretary,
Department of Energy
fort st. George, Chennai-9.

2. The Tamilnadu Electicity Board,
Anna Salai, chennai-600 002.
rep by its Chairman.

3. The Superintending Engineer,
TNEB, Gandhinagar, Vellore- 632 403

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4. The Junior Engineer,
TNEB, SIPCOT Industrial Estate,
Ranipet. ... Respondents

W.P.No.4939 of 2001

B. Kothandapani ... Petitioner

Vs

1. The State of Tamilnadu
Rep by its Secretary
Department of Energy
Fort St. George, Chennai-9.

2. The TNEB,
Rep by its Chairman
Anna Salai, Chennai-2.

3. The Superintending Engineer
The TNEB Avadi Electicity System
Avadi, Chennai.

4. The Executive Engineer
TNEB, Avadi, Chenani.

5. The Junior Engineer
TNEB, Redhills, Chennai.

6. The Assistant Engineer,
TNEB, Red Hills-1, Chennai ... Respondents

W.P.No.4940 of 2001

Fivestar Modern Rice Mill
rep by Managing Partner
A. Jiyavudheen ... Petitioner

Vs

1. The State of Tamilnadu
rep by its Secretary
Department of Energy,
Fort St,.George, Chennai-9.

2. The TNEB, rep by its Chairman,
Anna Salai, Chennai-2.

3. The Superintending Engineer
TNEB, Villupuram.

4. The Executive Engineer, (O&M)
TNEB, Villupuram

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5. The Assistant Executive Engineer (O&M)
TNEB, Vikravandi.

6. The Assistant Engineer, (O&M)
TNEB, Vikravandi ... Respondents

W.P.No.5600 of 2001

Dindigul Tanners Association,
rep by its Honourary Secretary
R. Aravamuthan ... Petitioner

Vs

1. The State of Tamilnadu
rep by its Secretary to Government,
Department of Energy,
Fort St,.George, Chennai-9.

2. TNEB, rep by its Chairman,
Anna Salai, Chennai-2.

3. Senior Engineer,
TNEB, Dindigul District.

4. Assistant Accounts Officer,
Revenue Branch
TNEB, Dindigul Electicity Distribution Circle,
Dindigul. ... Respondents

W.P.No.10777 of 2005

V. Manivannan ... Petitioner

Vs

1. The TNEB,
Regulatory commission,
No.17, 3rd Main road,
Seethamal Colony,
Alwarpet, Chennai-18.

2. The Assistant Executive Engineer (O&M)
TNEB, Arcot Town West
Arcot, Vellore District ... Respondents

W.P.No.13461 of 2005

M/s. Hargobind Steel Industries,
rep by its Proprietrix ... Petitioner

Vs

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1. The Tamilnadu Electricity Board,
Regulatory commission,
No.17, 3rd Main road,
Seethamal Colony,
Alwarpet, Chennai-18.

2. The Superintending Engineer,
CEDC/North TNEB,
Anna Salai, Chennai-2 ... Respondents

Prayer in All WPS

1. Petitions filed under Article 226 of the Constitution of India to issue a writ of Mandamus forbearing the respondent from levying penalty f Rs.20619/- and Rs.32426/- being the penalty charges from the low power factor and cosnsequently initiate any proceedings for disconnecting the power supply (W.P.Nos.7988 and 7989/2003) respectively.

2. to issue a writ of Mandamus directing the respodnent to forbear from levying any penalty for low power factor upon the petitioner in respect of LTC TS.No.252-581-136 and LTCT SC No.252-581-07; LTC TSC NO.258-09-110 and LTCTSC No.252-581-320 (W.P.Nos. 11384 to 11386/03) respectively.

3. to issue a writ of Mandamus directing the respodnent to forbear from levying any penalty for low power factor upon the petitioner in respect of LTC TS.No.252-583-247; LTC TSC No.252-581-18; LTC TSC No.252-582-193; LTC TSC NO.252-581-125; LTC TSC NO.247-348-64 and LTC TSC NO.247-348-116 LTC TSC No.252-581-122; LTC TSC NO. 252-581-299; LTC TSC NO.252-582-07, LTC TSC NO.252-582-08 & LTC TSC NO.252-582-61; LTC TSC NO.252-583-26 and LTC TSC NO.252-583-28, and LTC TSC NO.252-582-107 and LTC TSC NO.252-582-159; LTC TSC NOs. 252-583-314 abd 252-583-416 abnd 252-583-418; LTC TSC NO.252-581-17; LTC TSC NO.258-09-129 and LTC TSC NO.258-09-136, 252-582-26; LTC TSC NO.252-582-160; LTC TSC NO.247-348-01 LTC TSC NO.247-348-61; 252-581-233; 252-582-25; 252-582-118; 247-348-15 and 24-348-16; 252-581-361; and 252-581-138; 252-583-05; 252-584-71 and 252-584-77, 252-582-19; 252-582-235; 252-582-178; 252-582-167, 252-582-169 and 252-582-238; 252-581-12; 252-582-132, 252-582-58, 252-582-112; 252-582-68; 252-581-419; 252-582-117 and 252-582-232; respectively (in W.P.Nos.11505 to 11514, 11678 to 11690/2003)

(W.P.Nos.12260 to 12262, 12267 to 12269, 12561, 12544, 14576, 14600, 14607, 14807, 14813, 14827, 15038 and 15449/2003)

4. To issue a writ of certorari calling for the records of the first respondent herein culminating with G.O.Ms.NO.3 Energy (A2) Department dated 7.1.2000 in so far as it imposes a penalty for fall in power factor below o.85 lag and quash the same (W.P.Nos.1499. 4939 and 4940/2001) respectively.

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5. to issue a writ of declaration to declare that the levy of penalty / compensation loss by the respondents if there is fall in average power factor below 0.85 lags as illegal unconstitutional and ultra vires of the povisions of the Indian Electricity Act 1910 (W.P.No.5600/2001)

6. to issue a writ of declaration declaring that the levy demand and collection of compensation charges for not maintaining power factor over and above 0.85 lags in respect of the petitioners rice mill comtemplated in the public notice issued by the first respondent in "The Hindu" dated 16.3.2003 is illegal ultra vires and unconstitutional (W.P.NO.10777 of 2005)

7. to issue a writ of declaration declaring that the levy demand and collection of compensation charges for not maintaining power factor below 0.90 lags in respect of Petitioners stell rolling mill contemplated in the Public notice issued by the first respondent in the "The Hindu" dated 16.3.2003 as illegal ultra vires and unconstitutional (W.P.NO.13461/2005)

M/s. Ravi & P. Arumugarajan for the petitioners in W.P.Nos.11384 to 1386, 11505 to 11514, 11678 to 11690, 12260 to 12262, 12267 to 12269, 12561, 12544, 14576, 14600, 14607, 14807, 14813, 14827, 15038, 15449 of 2003

Mr. Jayesh Dolia for M/s. Aiyar & Dolia for the petitioner in WP.No.7988 & 7989 of 2003

Mr. Vaidyanathan for the petitioner in WP.No.1499

Mr.S. Parthasarathy, Senior Counsel for for M/s. Sarvabhauman Associates for the petitioners in WP.No.4939 & 4940 of 2001

M/s. Mc Gan Law Firm in WP.No.5600/2001

Mr.C. Prakasam for the petitioner in W.P.No.10777 of 2005

M/s.T.S. Sivagnanam & S. Ravichandran for the petitioner in WP.No.13461 of 2005

Mr.G. Vasudevan for Respondent (TNEB) in all WPs

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COMMON JUDGMENT

In this batch of writ petitions, the petitioners have challenged the right of the respondents to levy penalty for low power factor. Prayer in most of the writ petitions is for issuing mandamus forbearing respondents from levying such penalty. However, in W.P.Nos.4939, 4940 and 1499 of 2001 a prayer has been made for quashing G.O.Ms.No.3 Energy (A2) Department dated 7.1.2000. In W.P.Nos.13461 and 10777 of 2005 prayer has been made for issuing a declaration that low power factor penalty may be declared as ultra vires.

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2. The petitioners, who have obtained service connection, have contended that levy of such penalty is illegal as such levy is not contemplated under the provisions of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948. It is submitted that under these Acts, penalty is contemplated for violation of some order but there is nothing in these Acts which authorises levy of penalty for low power factor. It is also contended that imposition of such penalty is also not contemplated in the Terms and Conditions of Supply of Electricity. The other contention raised in the writ petitions is to the effect that no opportunity has been given to the petitioners regarding the electronic meter which purports to indicate about the low power factor and there is no guidelines for gauging the maintenance of power factor.

3. It is contended by the respondents that levy of such amount for low power factor has been fixed as per Section 4 of the Tamil Nadu Revision of Tariff of Supply of Electrical Energy Act, 1978 (Act 1/1979) and the penalty for maintaining low power factor has been levied as per G.O.3 in the year 2000 and such levy is legally authorised. It is further contended that such levy had been fixed as per the said G.O. and subsequently the Tamil Nadu Electricity Regulatory commission became functional and such levy was made as per Tariff Order TRP No.1 of 2002, which came into force with effect from 16.03.2003. The basis for calculation of such amount is fixed and the consumers are aware as it is reflected in the Bill. The consumers are also given incentive if the power factor exceeds the stipulation and a rebate of 0.05% of the current consumption charges is allowed. Since the meter reading is done in the presence of consumers, there is no further scope for compliance with any other principle of natural justice and in the absence of any complaint that the meter installed is defective, there is no scope for raising any dispute on that aspect.

4.Before considering the contentions, it is necessary to briefly refer to the concepts relating to power factor. It is well accepted that power factor is the ratio for active power and apparent power. Power factor is related to active power/energy, reactive power/energy, voltage profile and transmission and distribution losses of the Transmission and Distribution network and power factor changes in voltage profile of the network. If, in a network, a consumer maintains a lower power factor, the voltage of distribution licensee network and other consumers of the network are affected, thereby affecting the equipments and because of the above penalty of low power factor is levied by the Electricity Board as per the Government orders issued earlier relating to tariff and as per Tamil Nadu Energy Regulatory Commission's Tariff Order subsequently.

5. It is submitted that all over the world, a penalty is incorporated in the energy bill against power factor lower than a set limit. It is also pointed out by the counsel for respondents

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that power factor penalty is incorporated in the energy bills of other States such as Andhra Pradesh, Bihar, Gujarat, Maharashtra, Punjab, etc. and such low power factor penalty is incorporated to discourage erring consumers as otherwise other consumers are likely to be affected without any fault on their part.

6.With the above background, the two main contentions of the petitioners are required to be considered.

7.It is not disputed that for the purpose of finding out and calculating the low power factor, a Circular was issued informing the various consumers that electronic meter to record such power factor was installed and the consumers were advised to ensure that the power factor should be maintained over 0.85 lag. To maintain such power factor at the stipulated level, a capacitor can be installed and in fact most of the petitioners had done so. The omnibus contention that such low power factor is being calculated unilaterally without any opportunity does not appear to be acceptable as a circular had been issued for installing such an electronic meter and it cannot be said that the consumers did not have any notice.

8.Coming to the question of the authority to impose any penalty for low power factor, it is necessary to refer the provisions contained in the Tamil Nadu Revision of Tariff on supply of Electrical Energy Act, 1979 (Act No.1 of 1979) (hereinafter referred to as "the Act").

The Tamil Nadu Revision of Tariff on supply of Electrical Energy Act, 1979 (Act No.1 of 1979), is an Act to provide for revision of tariff rates leviable on electric energy supplied in this State by the Tamil Nadu Electricity Board. Under Section 2 (b) 'Tariff' means

> "the rate of tariff leviable upon the consumption of any electrical energy in this State supplied by the Tamil Nadu Electricity Board and as specified in the Schedule to this Act."

Section 3 reads as follows:

> "Tariff rates for consumption of electrical energy.-- Notwithstanding anything contained in the Tamil Nadu Essential Articles Control and Requisitioning (Temporary Powers) Act 1949 (Tamil Nadu Act XXIV of 1949), the tariff rates payable to the Tamil Nadu Electricity Board by any consumer on the electrical energy supplied by the Board shall be as specified in the Schedule to this Act."

Under Section 4, the State Government is empowered to amend the Schedule by notification. By virtue of G.O.Ms.No.3, Energy (A2), dated 07.01.2000, such schedule has been amended. In the general provisions applicable to consumers covered under High Tension Tariff I to V, clause (iv) relates to power factor/low factor surcharge, which is extracted hereunder:

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"(iv)Power Factor/Low Factor surcharge.-- In respect of High Tension service connections, the average power factor of the consumers installation shall not be less than 0.90 lag. Where the average power factor of High Tension service connection is less than the stipulated limit of 0.90 lag, the following compensation charges will be levied:-

Below 0.90 lag and upto 0.85	One per cent of the current consumption charges for every reduction of 0.01 in power factor
Below 0.85 to 0.75	One and half per cent of the current consumption charges for every reduction of 0.01 in power factor from 0.90
Below 0.75	Two per cent of the current consumption charges for every reduction of 0.01 in power factor from 0.90.

9. Thus as per Section 4 of the Act 1/1979 the Government can fix the tariff and accordingly it had been done so. Even though the Government Order had been specifically challenged, the validity of the provisions of the Act 1/1979 is not in question. Since the Government was empowered to fix the tariff, the levy of penalty for low power factor also can be considered as a part of such tariff. Subsequently, the Regulatory Commission has fixed such penalty for low power factor and the authority of the Regulatory Commission is also not under challenge.

10. It has been contended by the petitioners in some of the writ petitions filed for declaration that the levy of compensation charges as recommended by the Tamil Nadu Electricity Board Regulatory Commission is illegal and such levy is not contemplated under Section 23 of the Indian Electricity Act, 1910. They have invited attention to Section 23(3) of the Indian Electricity Act, which is as follows :-

"23. Charges for energy to be made without under preference.--

(1) ...

(2) ...

(3) In the absence of an agreement to the contrary, a licensee may charge for energy supplied by him to any consumer--

(a) by the actual amount of energy so supplied, or

(b) by the electrical quantity contained in the supply, or

(c) by such other method as may be approved by the State Government.

(4) Any charges made by a licensee under Clause (c) of sub-section (3) may be based upon, and vary in accordance with, any one or more of the following considerations, namely,--

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(a) the consumer's load factor, or

(b) the power factors of his load, or

(c) his total consumption of energy during any stated period or

(d) the hours at which the supply of energy is required."

I do not think that the aforesaid provisions in any way prohibit the levy of such compensation. On the other hand, Section 23(3)(c) contemplates any other method as may be approved by the State Government. It can be said that directing payment of compensation, which has been approved by the State Government, can be said to be contemplated under Section 23(3)(c). Similarly Section 23(4)(a) and 23(4)(b) take into consideration the consumers load factor and the power factors. Even though the petitioners have placed reliance on Section 49 of the Electricity (Supply) Act, I do not think that there is anything in such provision which is contravened by imposition of such levy.

The contention to the effect that the provisions contained in the Electricity Act and the Electricity Supply Act do not contemplate any such imposition is untenable as the Regulatory Commission is empowered to go into all the relevant factors to fix the tariff. Therefore, the contention to the effect that there is no authority either to levy low power factor penalty does not appear to be sustainable.

11. It is contended on behalf of some of the petitioners that it is impossible to maintain the power factor as indicated by the Government/Regulatory Commission. It is obvious that the Government has taken a decision on the basis of the advice of experts. Similarly, subsequent decision taken by the Regulatory Commission, which includes experts in the field, is also apparently on the basis of the opinion of the experts. It is difficult for a writ court to come to any conclusion different from the experts, unless specific materials are put-forth before the court. Since the Regulatory Commission is empowered to consider the matter as an on-going process, it would be always open to the petitioners to bring these aspects to the notice of the Regulatory Commission during its future deliberations and it goes without saying that all the relevant aspects should be taken into consideration by the Regulatory Commission in future and if necessary instructions can be issued modifying the parameters.

12. A contention was raised that no penalty can be levied as there is no wilful violation by the consumer. According to the learned counsel for the Tamil Nadu Electricity Board the maintaining of the power factor at higher levels is itself an incentive as it benefits the consumers in terms of a stable voltage operation and reduces the chances of damage to consumers' equipment due to fluctuations and moreover it also leads to cost savings to the consumers through a lower energy charge. On the other hand, the Tamil Nadu Electricity Board is required to put up capacitor banks and other infrastructure services to correct the low power factor in the system. Hence, there is justification to

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charge suitable amount from the consumer, which is more or less compensatory in nature, though described at times as power factor penalty.

In my considered opinion, such submission made by the learned counsel for the Board is acceptable and even though at times such imposition is described as 'penalty', it is apparent that the amount demanded by the authorities is only 'compensatory' and should not be considered as penalty in the normal sense such penalty is understood.

13. For the aforesaid reasons, the general contentions in the writ petitions cannot be accepted. However, it is clarified that if there has been any specific complaint / representation by any of the consumer regarding defect in the electronic meter, at any point of time, obviously, such complaint is required to be considered by the appropriate authority. But, assuming that there has been some defect in some meters, for that reason the power to levy low power factor penalty cannot be denied. An individual grievance if any can be considered by the appropriate authority in accordance with law by raising appropriate dispute.

14.Therefore, while upholding the right to levy low power factor penalty, the writ petitions are disposed of with the observation that if there has been or is any individual grievance, such individual grievance is required to be considered, in accordance with law. No order as to costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

gb.

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To

1. The Superintending Engineer
Chennai Electricity Distribution Circle (South)
Tamil Nadu Electricity Board,
Anna Main Road, K.K. Nagar,
Chennai-600 078.

2. The Assistant Executive Engineer
Operation & Maintenance
Tamilnadu Electricity Board,
Kadapperi, Chennai-45.

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3. The Assistant Engineer
Operation & Maintainance,
Tamil Nadu electicity Board,
Sripuram, Chrompet,
Chennai-600 041.

4. The Assistant Executive Engineer,
Operation & Maintenance
TNEB, Pallavaram, Chennai-43.

5. The Assistant Engineer,
(O &M) TNEB, anakaputhur,
Chennai-70.

6. The Assistant Engineer,
(O&M) TNEB, Pammal, Chennai-75.

7. The Assistant Engineer,
(O &M) TNEB, Radhanagar, Chennai.

8. Secretary
Department of Energy,
State of Tamilnadu,
Fort st. George, Chennai-9.

9. The Chairman,
The Tamilnadu Electricity Board,
Anna Salai, Chenani-2

10. The Superintending Engineer,
TNEB, Gandhi Nagar, Vellore- 632 403.

11. The Junior Engineer,
TNEB, Sipcot Industrial Estate,
Ranipet.

12. The Superintendeing Engineer,
TNEB, Avadi, Electricity system,
Avadi, Chennai.

13. The Executive Engineer,
TNEB, Avadi, Chennai.

14. The Junior Engineer,
TNEB, Red hills, Chennai.

15. The Assistant Engineer,
TNEB, Red Hills-1, Chennai

16. The Superintendent Engineer,
TNEB, Villupuram.

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17. The Assistant Executive Engineer (O &M)
TNEB, Vikravandi.

18. The Assistant Engineer (O&M)
TNEB, Vikravandi.

19. Senior Engineer,
TNEB, Dindigul.

20. Assistant Accounts Officer,
Revenue Branch,
TNEB, Dindigul Electricity
Distribution circle
Dindigul.

21. The TNEB,
Regulatory Commission
No.17, 3rd Main road,
Seethamal Colony, Alwarpet, Chennai.

22. The Assistant Executive Engineer
TNEB, Arcot Town west
Vellore.

23. The Superintending Engineer
CEDc North TNEB
Anna Salai, Chennai- 600 002.

24. Thje Superintending Engineer
CEDC/West Anna Nagar, TNEB,
Chennai-40.

25. The Assistant Executive Engineer,
Avadi, CED Circle/ West TNEB, Chennai-54.

26. The Assistant Executive Engineer,
O &M, Red hills, CEDC/ West,
Redhills, TNDB, Chenani-52.

2 ccs to R. Jeevarathinam, Sr. 41814, 41815
1 cc to Mr. C. Prakasam, Sr. 41869
1 cc to MR. Vaidanathan, Sr. 42142
1 cc to Mr. Aiyar and Dolia, Sr. 41915

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